

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

VLSI TECHNOLOGY LLC,
 Plaintiff,
 v.
 INTEL CORPORATION,
 Defendant.

Case No. 17-cv-05671-BLF

**ORDER REGARDING MOTIONS TO
 SEAL**

[Re: ECF Nos. 559, 563]

Before the Court are two motions to seal documents submitted with Intel Corporation's ("Intel") *Daubert* motions. *See* Intel's Administrative Motion to File Under Seal Portions of Intel's Opposition to Plaintiff VLSI Technology LLC's Motion to Strike Certain Opinions of Intel's Technical Experts and Exhibits 1-5 Thereto (ECF No. 559); Intel's Administrative Motion to File Under Seal Portions of Intel's Opposition to Plaintiff VLSI Technology LLC's Motion to Exclude Damages Opinions of Intel's Experts and Exhibits 2, 6, 7, 8, 9, 10, 11 and 12 Thereto (ECF No. 563). For the reasons discussed below, the motions are GRANTED.

I. LEGAL STANDARD

"Historically, courts have recognized a 'general right to inspect and copy public records and documents, including judicial records and documents.'" *Kamakana v. City & Cty. Of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Accordingly, when considering a sealing request, "a 'strong presumption in favor of access' is the starting point." *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)). Parties seeking to seal judicial records relating to motions that are "more than tangentially related to the underlying cause of action" bear the burden of overcoming the presumption with "compelling reasons" that outweigh the general history of

1 access and the public policies favoring disclosure. *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d
2 1092, 1099 (9th Cir. 2016); *Kamakana*, 447 F.3d at 1178–79.

3 Records attached to motions that are “not related, or only tangentially related, to the merits
4 of a case,” however, are not subject to the strong presumption of access. *Ctr. for Auto Safety*, 809
5 F.3d at 1099; *see also Kamakana*, 447 F.3d at 1179 (“[T]he public has less of a need for access to
6 court records attached only to non-dispositive motions because those documents are often
7 unrelated, or only tangentially related, to the underlying cause of action.”). Parties moving to seal
8 the documents attached to such motions must meet the lower “good cause” standard of Rule
9 26(c). *Kamakana*, 447 F.3d at 1179 (internal quotations and citations omitted). This standard
10 requires a “particularized showing,” *id.*, that “specific prejudice or harm will result” if the
11 information is disclosed. *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206,
12 1210–11 (9th Cir. 2002); *see Fed. R. Civ. P. 26(c)*. “Broad allegations of harm, unsubstantiated
13 by specific examples of articulated reasoning” will not suffice. *Beckman Indus., Inc. v. Int’l Ins.*
14 *Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

15 II. DISCUSSION

16 The documents at issue in Intel’s motions to seal are associated with the parties’ *Daubert*
17 motions and seek to strike or exclude certain expert opinions. These opinions concern
18 infringement and invalidity of the patents at issue in the case, as well as available damages for the
19 alleged infringement. These issues are “more than tangentially related to the merits of [the] case”
20 and therefore the parties must provide “compelling reasons” for maintaining the documents under
21 seal. *See Ctr. for Auto Safety*, 809 F.3d at 1101; *see also Finjan, Inc. v. Juniper Network, Inc.*,
22 No. C 17-5659 WHA, 2021 WL 1091512, at *1 (N.D. Cal. Feb. 10, 2021).

23 Intel argues that compelling reasons exist to seal the material it seeks to seal because
24 “maintaining the confidentiality of the process recipes and technical information regarding the
25 design and operation of the accused features is critical to Intel’s business.” ECF No. 559; ECF
26 No. 563. Intel further argues that “[k]nowledge of this information by third parties would put Intel
27 at a competitive disadvantage in future product development and in its business dealings as its
28 competitors could incorporate that information into their own development strategies and products

to gain an unfair advantage over Intel in the market.” ECF No. 559; ECF No. 563.

The Court finds that compelling reasons exist to seal the highlighted portions of the document. *See Finjan, Inc. v. Proofpoint, Inc.*, No. 13-CV-05808-HSG, 2016 WL 7911651, at *1 (N.D. Cal. Apr. 6, 2016) (finding “technical operation of [defendant's] products” sealable under “compelling reasons” standard); *Exeltis USA Inc. v. First Databank, Inc.*, No. 17-CV-04810-HSG, 2020 WL 2838812, at *1 (N.D. Cal. June 1, 2020) (noting that courts have found “confidential business information” in the form of “business strategies” sealable under the compelling reasons standard.). The Court also finds that the request is narrowly tailored.

Accordingly, Intel’s motions (ECF Nos. 559 and 563) are GRANTED.

ECF No.	Document	Portion(s) to Seal	Ruling
559	Intel’s Opposition to Plaintiff VLSI Technology LLC’s Motion to Strike Certain Opinions of Intel’s Experts and Exhibits 1-5 thereto	Green boxed portions	Granted.

ECF No.	Document	Portion(s) to Seal	Ruling
563	Intel’s Opposition to Plaintiff VLSI Technology LLC’s Motion to Exclude Damages Opinions of Intel’s Experts and Exhibits 2, 6, 7, 8, 9, 10, 11, and 12 thereto	Green boxed portions	Granted.

The Court notes that Intel failed to comply with Section V of this Court’s Standing Order Re Civil Cases. Intel does not distinguish which documents contain each type of purportedly sealable information. Instead, Intel appears to argue that every document that it seeks to seal has “process recipes and technical information regarding the design and operation of the accused features.” ECF No. 559 at 4; ECF No. 563 at 4. This blanket assertion is not sufficiently particularized to provide compelling reasons to seal. *See In re Pac. Fertility Ctr. Litig.*, No. 18-CV-01586-JSC, 2021 WL 1081129, at *2 (N.D. Cal. Feb. 18, 2021) (denying request to seal where party “has not made a particularized showing with respect to any of the documents it seeks

to file under seal nor has it argued that particular documents contain trade secret information.”).

Nor does Intel comply with this Court’s standing order, which requires:

Each [sealing] motion must include a chart . . . which includes the following four columns: (1) ECF number or exhibit number of the document sought to be sealed; (2) description or name of the document sought to be sealed; (3) portion(s) of the document to seal; and (4) reason(s) why the document should be sealed, including citation to the applicable declaration. Each separate document for which sealing is sought shall have its own row in the table.

Standing Order Re Civil Cases § V.

The Court will overlook the failure for this motion. However, future failures to comply with the standing order may result in denial of a motion to seal with prejudice.

III. ORDER

For the foregoing reasons, IT IS HEREBY ORDERED that:

1. Intel’s Motion to Seal at ECF No. 559 is GRANTED.
2. Intel’s Motion to Seal at ECF No. 563 is GRANTED.

The parties are instructed to file redacted copies of these documents as soon as is feasible in accordance with ECF No. 607.

Dated: September 5, 2023


 BETH LABSON FREEMAN
 United States District Judge